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10/541,358

07/06/2005

Serge Menard

0522-1009

1109

466

7590

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EXAMINER

SOTELO, JESUS D

ART UNIT

PAPER NUMBER

3617

DATE MAILED: 07/12/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

|                              |                        |                     |  |
|------------------------------|------------------------|---------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b> | <b>Applicant(s)</b> |  |
|                              | 10/541,358             | MENARD, SERGE       |  |
|                              | <b>Examiner</b>        | <b>Art Unit</b>     |  |
|                              | Jesús D. Sotelo        | 3617                |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 24 April 2006.
- 2a) ☒ This action is **FINAL**.                      2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 11-17 and 19-22 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 11-17 and 19-22 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

### DETAILED ACTION

1. Claims 11-17 and 19-22 are in the application. Claims 1-10 and 18 have been canceled.

#### *Drawings*

2. The drawings are objected to under 37 CFR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the arrangement of the door that comprises two flaps and each flap includes two parts that are articulated, as in claim 14 must be shown or the feature(s) canceled from the claim(s). Presently the articulation of these parts is not shown. With reference to claim 15, the manner in which the parts slide has not been shown. Also it would appear that the doors are articulated about the center portion (the part distant from the sliding area. If this is the case, how do the doors open? With reference to claim 16, how does the panel slide if it is pivoted to the floor? No new matter should be entered.

Corrected drawing sheets in compliance with 37 CFR 1.121(d) are required in reply to the Office action to avoid abandonment of the application. Any amended replacement drawing sheet should include all of the figures appearing on the immediate prior version of the sheet, even if only one figure is being amended. The figure or figure number of an amended drawing should not be labeled as "amended." If a drawing figure is to be canceled, the appropriate figure must be removed from the replacement sheet, and where necessary, the remaining figures must be renumbered and appropriate changes made to the brief description of the several views of the drawings for consistency. Additional replacement sheets may be necessary to show the renumbering of the remaining figures. Each drawing sheet submitted after the filing date of an application must be labeled in the top margin as either "Replacement Sheet" or "New Sheet" pursuant to 37 CFR 1.121(d). If the changes are not accepted by the examiner, the applicant will

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be notified and informed of any required corrective action in the next Office action. The objection to the drawings will not be held in abeyance.

***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

4. Claims 14, 15, and 16 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 14 the door is defined as comprising “two flaps that each comprise two parts that are articulated together around a vertical axis” and the “ends of the two art that are distant from the vertical axis are attached to a corresponding vertical side of the rear hull”. This arrangement suggests that the door flaps, as shown in figure 5, are articulated about a central axis and are attached to the vertical side of the rear hull by a slide (claim 15). If this is the case, how do the doors open? Is the vertical axis fixed? With reference to claim 16 how the panel slides by pivoting.

***Claim Rejections - 35 USC § 103***

5. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

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6. Claims 11-13, 21, and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Ni (5,988,093).

Kossa et al discloses a vessel including an elongated basin and ballast means 121-124 that make it possible to alter the vessel's draft and wherein the hull includes two lateral hulls 18, 19 that surround the basin and that limits the upper edge of the basin. The ballast means operate between two positions which includes one wherein the basin is evacuated and the upper edge of hulls 18, 19 are above sea level and a full position where the bottom of the basin is below the level of a floating vessel such that the floating vessel can be floated into the basin. Kossa et al teaches that the vessel can have any number of actual proportions but lists some of the dimensions as being around 200 meters long, around 24 meters wide and having a height around 9 meters. The actual dimensions of the vessel are deemed to have been obvious matters of design choice to one skilled in the art. Kossa et al also discloses a door 100 that can close the rear of the basin. Kossa discloses that the door 100 does not seal the basin area, but when the door is closed the free ingress or egress of water from the basin is limited. To this extent, the door 100, virtually seals the basin area. The height of the door is deemed to have been an obvious matter of design choice dependant on the size of the vessel.

Ni discloses a vessel similar to that of Kossa et al and teaches providing the same with transverse thrusters 5a. In view of these disclosures, it would have been obvious to one having ordinary skill in the art to provide the vessel of Kossa et al with transverse thrusters generally as taught by Ni. The use of transverse thrusters would have been desirable to provide better maneuverability to the vessel.

7. Claim 17 is rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Ni (5,988,093), as applied to claim 11, further in view of Cushing et al (3,823,681).

Cushing et al discloses a vessel similar to that of Kossa et al and teaches providing port and starboard sides that have a height that is lower than that of the sides at the front and rear of the vessel. In view of these disclosures, it would have been obvious to one skilled in the art to provide the vessel of Kossa et al with lateral sides generally as taught by Cushing et al.

8. Claims 19 and 20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Kossa et al (3,934,530) in view of Ni (5,988,093), as applied to claim 11, further in view of Burnett (3,133,518).

Burnett discloses a vessel similar to that of Kossa et al and teaches using the same for receiving the same by sending the vessel to the location where the vessel needs to be recovered; ballasting the vessel such that the bottom of the basin is below the keel of the vessel to be rescued; introducing the vessel into the basin; and removing the ballast such that the upper edge of the basin is above sea level. In view of these disclosures, it would have been obvious to one skilled in the art to use the vessel of Kossa et al for recovering a vessel generally as taught by Burnett.

*Response to Arguments*

9. Applicant's arguments filed 4/24/06 have been fully considered but they are not persuasive.

10. Applicant argues that claim 11 requires that the basin be configured to be closed to limit to the basin the pollution by a vessel in distress protected in the basin. Applicant notes that the vessel in Kossa "cannot be closed to avoid polluting fluids to pass" and that "the door of Kossa cannot be sealed, and many passages connect the basin to the sea".

It is noted that claim 11 recites an elongated basin "which can be closed to limit to said basin pollution by a vessel in distress protected in the basin". The basin disclosed by Kossa can be closed by door 100 to *limit* basin pollution. The claim does not require that the basin be sealed as argued by applicant. Although claim 13 includes the language "a virtually sealed door that is configured to close the rear of the basin", it is noted that the term "virtually sealed" does not mean "sealed". The modifier "virtually" implies that the seal is not complete. The functional language "configured to close the rear basin" is met by the door 100 used by Kossa.

11. Applicant further argues that the vessel of Ni can not be closed at the ends and therefore that Ni does not disclose a basin. The application of Ni is for the teaching of transverse thrusters on a floating dock. This Ni clearly teaches.

12. With reference to claim 17 applicant argues that the vessel of Cushing has a basin that cannot be closed and therefore one would not obtain a rescue vessel having a basin which can not be closed. Cushing discloses a vessel carrier which is similar to that of Kossa. Cushing teaches a configuration of the side hulls of the vessel. Whether Cushing has a rear door or not is totally irrelevant.

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13. With reference to claim 19 the combination of Kossa, Ni and Burnett are deemed to meet the method steps recited therein.

***Conclusion***

14. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.


15. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jesús D. Sotelo whose telephone number is 571-272-6686. The examiner can normally be reached on Mon. – Fri. 5:30 AM – 2:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mr. Samuel J. Morano can be reached on 571-272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.



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Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

  
**Jesús D. Sotelo**  
Primary Examiner  
Art unit 3617  
KNX 03D69 ☺

jds  
July 6, 2006